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Rights of the Child

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COMMITTEE ON THE RIGHTS OF THE CHILD

Third session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Bolivia

1. The Committee considered the initial report of Bolivia (CRC/C/3/Add.2) at its 52nd, 53rd and 54th meetings (CRC/C/SR.52 to 54), held on 14 and 15 January 1993, and adopted* the following concluding observations:

A. Introduction

2. The Committee notes with satisfaction the timely submission of the initial report of Bolivia, which was one of the first States to become a party to the Convention on the Rights of the Child. Although the report contained valuable information on the legislative framework for the application of the Convention, the dialogue gave way to a request for further information on how the laws are applied in actual practice and what mechanisms exist to evaluate the results that have been achieved.

3. The Committee attaches great importance to the opportunity, afforded by the consideration of a State party's report, to undertake a constructive dialogue with that State party on the implementation of the Convention. In this regard, the Committee expresses its appreciation to the delegation of Bolivia for facilitating a useful and frank discussion and for providing further information to the Committee to enable it to obtain a more comprehensive view of the application of the Convention in Bolivia. The Committee takes note of the statement made by the delegation regretting that it had not been possible to include high-level representatives from the ministries concerned with the actual implementation of the Convention who could have benefited from direct dialogue with the Committee.

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* At the 65th meeting, held on 22 January 1993.

B. Positive aspects

4. The Committee welcomes the recent adoption and entry into force of the new juvenile code, which represents significant progress toward harmonizing legislation and policy with the provisions of the Convention and thereby providing a legal framework for its implementation. The Committee notes with satisfaction the process of the preparation of the reports, the involvement of the judiciary as well as the steps taken to provide for the participation of non-governmental organizations in the preparation of the relevant legislation and the formulation of public policy on children, thereby broadening popular participation in the implementation process. In this connection, it is also important to note that the provisions of the Convention may be invoked in a court of law in Bolivia.

C. Factors and difficulties impeding the implementation of the Convention

5. The Committee notes that economic factors, including a high-level of external debt, have made the full application of the Convention more difficult. In this respect, the Committee notes with concern that the long-term considerations embodied in many structural adjustment policies have not adequately taken into account the needs of today's children. While the State is responsible for the implementation of the Convention on the Rights of the Child, the Committee recognizes that additional international assistance will be needed to more effectively address the challenge of improving the situation of children living in poverty, particularly those from the rural areas of the country.

6. The Committee also recognizes that, since the new juvenile code was adopted only recently, there has not been sufficient time to implement it fully or to evaluate its effectiveness.

D. Principal subjects of concern

7. The Committee expresses its concern that the stringent budgetary measures have had high social costs and have adversely affected the rights of the child in Bolivia. The Committee, while welcoming the adoption of the Ten-year Plan of Action for the Bolivian Child, which is aimed at redressing in favour of children some of the present imbalances, emphasizes the need to elaborate a comprehensive strategy for implementing the Convention and to develop an effective monitoring mechanism for evaluating the progress achieved and the difficulties encountered. At present, it is unclear how non-governmental organizations and the general public are to be involved in monitoring and evaluating the application of the Convention.

8. The Committee is concerned that the definition of the child contained in the juvenile code does not comply with the requirements of article 1 of the Convention.

9. The Committee underlines the importance of implementing all of the provisions of the Convention in the light of the general principles contained in articles 2, 3, 6 and 12 of the Convention. In this regard, the Committee notes with concern the disparities in the status and treatment of children in Bolivia conforming to distinctions based on race, sex, language and ethnic or social origin. Vulnerable groups of children, including girl children, indigenous children and children living in poverty, are particularly disadvantaged in their access to adequate health and educational facilities and are the primary victims of such abuses as sale and trafficking, child labour and sexual and other forms of exploitation. The diminished level or protection for girl children inherent in the lower minimum age for marriage is discriminatory and, as a result, deprives this group of children of the benefit of other protections afforded by the Convention.

10. The Committee is concerned that only 47 per cent of births are supervised by qualified health care workers, and is alarmed at the implications this may have for increased likelihood of sickness and disability arising from preventable problems occurring during delivery. More budgetary support is needed to correct this situation, as well as sufficient support to programmes benefiting the mental and physical development of children. With respect to education, the Committee notes with concern that vulnerable groups of children, such as girl children, indigenous children and children living in rural areas, are over-represented in the number of children not enrolled in school.

11. With regard to articles 37 and 40, the Committee is concerned that there are not adequate safeguards to ensure non-discrimination in the implementation of these provisions of the Convention. The Committee is concerned about the present discretionary procedure of considering the "personality" of the child as a criteria for passing sentences. This practice, in its actual application, may often be discriminatory against children living in poverty. The Committee is also concerned that there is inadequate separation of the children from adults in detention and that a child may remain in custody for the excessively long period of 45 days before the legality of his or her detention is decided upon. The age for legal counselling without parental consent is unclear and practices in this regard may not be in conformity with article 37 (d) of the Convention.

12. The Committee expresses most particular concern for children who work or live in the street in order to survive and who require special attention because of the risks they are exposed to.

E. Suggestions and recommendations

13. The Committee recommends that the necessary changes be made in the juvenile c de to ensure that it is in full conformity with the requirements of the Convention, particularly with respect to the definition of the legislative framework and evaluating its effect on children, especially those from vulnerable groups. In this connection, the impact of the Ten-year Plan of Action for the Bolivian Child should also be actively monitored and statistical and other indicators necessary for evaluating the progress achieved should be included in the second periodic report of the State party. The Committee positively notes the statement made by the delegation indicating its commitment to send to the Committee in the near future further information

on indicators, in particular in the field of health, education, children in conflict with the law, disabled children or abandoned children.

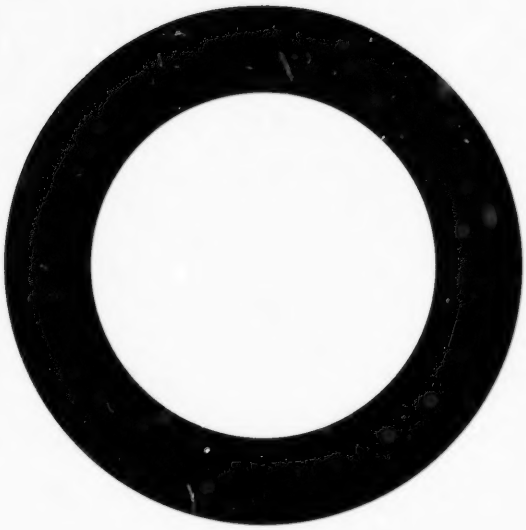
14. The Committee emphasizes that the principle of non-discrimination, as provided for under article 2 of the Convention, must be vigorously applied, and that a more active approach should be taken to eliminate discrimination against certain groups of children, most notably girl children. In this connection, the Committee notes that the application of this and the other general principles of the Convention cannot be dependent upon budgetary resources. With regard to budgetary priorities in the allocation of available resources, the State party should be guided by the principle of the best interest of the child, as provided for in article 3 of the Convention, particularly as this applies to the most vulnerable groups of children, such as girl children, indigenous children, and children living in poverty, including abandoned children.

15. The Committee encourages the Government of Bolivia to consider the possibility of acceding to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

16. The Committee recommends that the State party undertake to ensure that adequate protection is afforded to economically and socially disadvantaged children in conflict with the law and that alternatives to institutional care are available, as provided for under article 40, paragraphs 3 and 4, of the Convention.

17. The Committee underlines that the provisions of the Convention should be widely publicized among the general public and, in particular, among judges, lawyers, teachers and members of other professions working with children or which are concerned with the implementation of the Convention. Particularly important in this regard is the training of police and the staff in correctional facilities. Such initiatives could be effectively undertaken in cooperation with non-governmental organizations.

18. The Committee recommends that the provisions of the Convention should be more readily available in local languages. Steps should be taken to encourage grass-roots support for the rights of the child and to use the Convention as a tool to stimulate popular volunteer programmes, as a way of supplementing budgetary resources available for the benefit of children.



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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Sweden

1. The Committee considered the initial report of Sweden (CRC/C/3/Add.1) at its 56th, 57th and 58th meetings (CRC/C/SR.56 to 58), held on 18 and 19 January 1993, and adopted* the following concluding observations:

A. Introduction

2. The Committee notes with satisfaction that Sweden has undertaken the necessary steps for the swift ratification of the Convention and was the first State to fulfil its reporting obligations. Its report is very comprehensive and follows closely the Committee's guidelines, although more information is needed on the situation of vulnerable groups, particularly minority children, including indigenous children, and neglected children in the major city areas.

3. The Committee expresses its appreciation for the additional information provided by the delegation which was sent to present the report of Sweden to the Committee. In this regard, the presence of a high-level delegation enabled a constructive dialogue to take place between the Committee and officials from those ministries directly responsible for the implementation of the Convention.

B. Positive aspects

4. The Committee welcomes the Government's awareness of the need to take an active approach to implementing the Convention, disseminating information on it and seeking ways to further improve the status of children in Sweden. In

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* At the 73rd meeting, held on 28 January 1993.

this regard, the Committee notes with satisfaction that laws have been enacted and administrative measures proposed to harmonize the legal framework for the protection of children's rights with the requirements of the Convention. The relevant legislation generally reflects the provisions of the Convention as well as the general principles which serve to guide its implementation. Particularly noteworthy is the Government's spirit of dialogue with the non-governmental organizations, especially in regard to publicizing the Convention and promoting awareness among the general public.

5. The Committee expresses its appreciation for the significant contribution of the Swedish Government and the Swedish non-governmental organizations to improving the situation of children worldwide. The prominence given by the State party to furthering the rights of the child through international cooperation and assistance directly benefiting children follows the spirit of article 4 of the Convention and can serve as a useful guide for other States parties.

6. The Committee notes that the competent Swedish authorities are considering the possibility of ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

C. Principal subjects of concern

7. The Committee notes the fact that the law does not provide for protection against all the various forms of discrimination enumerated in article 2 of the Convention. As a result, it is unclear whether the law prohibits discrimination on the basis of the child's or his or her parents' or legal guardian's language, religion, political or other opinion, social origin, property, disability, birth or other status.

8. The Committee expresses its concern over the lack of clarity and apparent discrepancies contained in the law with regard to the definition of the child. The Committee notes that, although persons under 18 in Sweden do not enjoy full legal capacity, they may yet be subjected to military service and that a person aged 15 or over can be accepted in the Home Guard Defence. The Committee also expresses its concern that the age of sexual maturity has not been fixed, which threatens the protection of children from possible exploitation in the use of pornographic materials.

9. The Committee is concerned that the Government does not ensure that children in detention are separated from adults. The Committee is also concerned by the practice of taking foreign children into custody under the Aliens Act and notes that this practice is discriminatory in so far as Swedish children generally cannot be placed in custody until after the age of 18. Likewise, there seems to be a lack of information on children who are victims of sexual exploitation, including incest.

D. Suggestions and recommendations

10. With regard to general measures of implementation, the Committee recommends that careful attention be given to setting up the monitoring mechanism and indicators for measuring the progress made in the implementation of the legislative and other measures to protect the rights of the child. The

Committee underlines that the implementation of the Convention should be carried out in close co-operation with local authorities in order to ensure an approach which is effective and consistent with the provisions and general principles of the Convention. In this connection, the Government should ensure that spending cuts carried out by municipalities are effected with due regard for the best interests of children, particularly those from the most vulnerable groups. To enhance the effective implementation of the Convention, the Committee suggests that the State party consider closer coordination with non-governmental organizations at the policy-making level; incorporating the provisions of the Convention directly into domestic law; and further strengthening international cooperation and assistance, particularly for the benefit of vulnerable groups such as disabled children and children needing special protection.

11. With respect to the definition of the child, the Committee recommends that the State party consider an approach which is more coherent and more closely reflects the general principles and the provisions of the Convention. In recognition of the spirit of article 38 of the Convention, steps might be taken to close the gap in the law which at present allows for the possibility of conscripting children under the age of 18 into the armed forces. The Committee suggests that the Government should reassess the effectiveness of present regulations regarding the exploitation of children in pornographic materials. Further, the Government should not overlook the problem of sexual abuse within the family. The Government may also wish to reassess the advisability of permitting a child of seven years or older to accept legal or medical counseling without parental consent.

12. In regard to children in conflict with the law, the Committee suggests that further consideration should be given to ensuring that children in detention are separated from adults, taking into account the best interests of the child and alternatives to institutional care. In this connection, the State party may wish to study the situation in those countries where arrangements for liaison between juveniles and the police force have been established. The Committee also suggests that consideration be given to providing alternatives to the incarceration of children under the Aliens Act and that a public defence counsel be appointed for children in conflict with the law.

13. The Committee also recommends that steps should be taken to monitor more closely the situation of foreign children placed in adoptive families in Sweden. The Committee emphasizes the importance of monitoring the situation of foreign children and other vulnerable groups, and to this end, the Committee requests that the next report of the State party include fuller statistical and other indicators for these groups, including the incidence of HIV infection and AIDS. Recognizing that the ratification of other international human rights instruments has a favourable influence on the promotion of the rights of the child, the State party might consider ratifying the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child:
Viet Nam

1. The Committee considered the initial report of Viet Nam (CRC/C/3/Add.4) at its 59th, 60th and 61st meetings (CRC/C/SR.59 to 61), held on 19 and 20 January 1993, and adopted* the following concluding observations:

A. Introduction

2. The Committee expresses its appreciation to the State party for its report and for engaging through a high-ranking delegation in a constructive and frank dialogue with the Committee. It notes with satisfaction that Viet Nam has been the first Asian State to sign and ratify the Convention and to submit a report on its implementation. The Committee appreciates the comprehensiveness of the report, which has been prepared in conformity with the Committee's guidelines.

3. The report and the detailed additional information provided by the State party's representatives in the course of the discussion have enabled the

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* At the 73rd meeting, held on 28 January 1993.

Committee to obtain a comprehensive view of the State party's compliance with the obligations undertaken under the Convention on the Rights of the Child and human rights standards set forth therein.

B. Positive aspects

4. The Committee takes note with satisfaction of the efforts made by the Government of Viet Nam to secure implementation of the Convention's provisions throughout the country. The adoption by the National Assembly of the Law on the Protection, Care and Education of Children and of the Law on the Universalization of Primary Education in August 1991, the proclamation of the Year of the Vietnamese Child in 1989-1990, the national review of the first 10 years (1979-1989) of implementation of the Ordinance on the Protection, Care and Education of Children and related activities, the stipulations on the rights of the child in the new national Constitution - all these developments are important steps towards the implementation of the Convention. The Committee notes with satisfaction the holding, as follow-up action to the World Summit for Children, of a National Summit for Children and approval by it of Viet Nam's draft National Programme of Action for Children 1991-2000. The Committee finds of particular importance the establishment of the Committee for the Protection and Care of Children at the national level, as well as the establishment of such Committees at provincial, district and commune level, to monitor the implementation of the Convention.

C. Factors and difficulties impeding the implementation of the Convention

5. The Committee notes that transition from a centrally planned to a market oriented economy in Viet Nam produces new, or aggravates old, social problems which have a negative impact on the situation of children. Old traditions in remote parts of the country also create difficulties for the application of the provisions of the Convention. The Committee notes that the Government of Viet Nam is well aware of the existing difficulties impeding the implementation of the Convention and much appreciates the frankness and openness of the report in this respect. The Committee, furthermore, notes the commitment expressed by the Government to do everything, through national as well as international actions, in such a difficult situation to ensure that the children's problems are treated with the highest possible priority.

D. Principal subjects of concern

6. The Committee expresses its concern about the negative effects of the economic reforms under way in Viet Nam on the situation of children. It is also concerned about the situation of children belonging to the various minority groups, especially those living in the mountain areas of the country. The Committee notes that long periods of imprisonment for delinquent children set forth in national penal legislation are not in conformity with the provisions of article 37 of the Convention and that every child alleged to have or accused of having infringed the penal law should have the guarantees envisaged in article 40 of the Convention. The Committee also expresses its concern at the perpetuation

of prejudices in some regions of the country resulting in discrimination against women and girls. The situation of children in rural areas is a general concern, e.g. regarding health and educational possibilities. The growing number of children living and/or working on the street, child prostitution and pornography are also matters of concern, as is the lack of adequate training of the law enforcement officials as far as the implementation of the Convention is concerned.

E. Suggestions and recommendations

7. The Committee considers it to be particularly important for the Government of Viet Nam to take all necessary steps, both nationally and also using international assistance and cooperation, to minimize the negative impact that the economic reforms may have on the most vulnerable group, i.e. children of the Vietnamese society. Particular attention should be paid to the protection of children belonging to different minority groups, children living in rural areas and children in urban areas who live and/or work on the street. In the latter case, there seems to be a need to further study the root causes of this phenomenon and develop appropriate strategies to resolve this problem.

8. The appropriate amendments should be made to the Penal Code in order to adequately reflect the provisions contained in articles 37, 39 and 40 of the Convention as well as the relevant provisions of the Code of Conduct for Law Enforcement Officials and other international standards in this field, such as the "Beijing Rules", the "Riyadh Guidelines" and the Rules for the Protection of Juveniles Deprived of their Liberty. In this connection the Committee recommends that a training course for law enforcement personnel be organized by the Centre for Human Rights in Viet Nam.

9. The text of the Convention should be translated into the languages of all minority groups and disseminated as widely as possible in order to sensitize the public opinion with respect to the protection of the rights of the child. The youth and non-governmental organizations could play an active role in creating an awareness about the Convention all over the country.

10. The Committee proposed, in accordance with article 44, paragraph 4, that additional information be provided to the Committee with respect to the administration of juvenile justice by 1 June 1993 in order to enable the Committee's pre-sessional working group to consider that information and to report back to the Committee at its autumn session. The publication and the widest possible dissemination within the country of the report submitted by the Government of Viet Nam to the Committee and of the Committee's proceedings are recommended.